

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

August 6, 2009

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, August 6, 2009, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Darrell Downing, Chair; David Dennis; Shawn Farney; Bud Hentzen; Hoyt Hillman; Joe Johnson; Ronald Marnell; Debra Miller Stevens and Don Sherman. David Foster; Bill Johnson; John W. McKay Jr.; M.S. Mitchell and G. Nelson Van Fleet were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Joe Lang, Chief Deputy City Attorney; Bob Parnacott, Assistant County Counselor; and Maryann Crockett, Recording Secretary.

1. Approval of the prior MAPC meeting minutes:

Meeting Date: No Minutes

- 2-1. **SUB 2008-70: Revised One-Step Final Plat -- CORNFIELD ADDITION**, located north of 55th Street South and east of Seneca.

NOTE: This is an unplatted site located within the City.

This revised plat includes five fewer lots and reduced street length.

STAFF COMMENTS:

- A. City Water Utilities Department has required the applicant to extend water (transmission and distribution) to serve all lots being platted. The applicant shall also extend sewer to serve Lot 2. (Lots 1 and 3 have access to sewer).
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the drainage plan subject to revisions. A restrictive covenant shall be submitted regarding maintenance of the drainage retention easements.
- D. The Applicant shall guarantee the paving of Sycamore Cir. City Engineering and City Fire Department have requested a guarantee be submitted for future paving improvements to Sycamore extending to 51st St. South incorporating adjoining property owners.
- E. On the final plat tracing, the contingent street dedication needs to be referenced in the plat's text. The language should state that "the contingent street dedication is hereby contingently dedicated as street right-of-way to become effective upon the platting of any adjacent subdivision having a street connecting thereto. The costs of constructing said street, are to be borne by the person(s) or agency that owns said adjacent subdivision."
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and

owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.

- G. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Westar Energy has requested additional utility easements to be platted on this property.
- O. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

J. JOHNSON moved, **SHERMAN** seconded the motion, and it carried (9-0).

2. PUBLIC HEARING – VACATION ITEMS

- 3-1. VAC2009-27: City request to vacate a portion of a platted drainage easement**, generally located north of 21st Street North, east of Hoover Road, north of Zoo Park Circle.

OWNER/APPLICANT: Zoo Park Development LLC, c/o Steve Cox

AGENT: Baughman Co., PA c/o Phil Meyer

LEGAL DESCRIPTION: A 15-foot (x) 20-foot (x) 15-foot north most portion of platted 20-foot drainage easement located partially along the common lot lines of Lots 5 & 6, but entirely in Lot 5, all in Block A, Cox Machine 3rd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located north of 21st Street North, east of Hoover Road, north of Zoo Park Circle (WCC #V)

REASON FOR REQUEST: Allow construction of a concrete wall

CURRENT ZONING: Subject property and all abutting properties are zoned IP Industrial Park ("IP").

The applicant is requesting consideration for the vacation of the described portion of the platted drainage easement. The applicant proposes to build a concrete wall, which would encroach into this portion of the easement. The easement runs parallel to both sides of the Zoo Park Circle ROW, except for this stub extending out from the northeast portion of the cul-de-sac of Zoo Park Circle. There are no utilities, manholes, sewer or water lines located in the described platted easements. The Cox Machine 3rd Addition was recorded with the Register of Deeds May 19, 2009.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described platted drainage easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 16, 2009, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the described portion of the platted drainage easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Considerations (but not limited to) associated with the request to vacate the described portion of the platted drainage easement have been identified, therefore, the vacation of the portion of the platted drainage easement described in the petition should be approved with conditions;

- (1) As needed, provide Staff with all required additional easement(s), with original signatures, dedicated by separate instrument, as needed and approved by Public Works/Storm Water. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.

- (2) Provide Planning staff with the legal description of the vacated easements on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. If necessary provide Storm Water and franchised utilities with any needed plans for review for location of their utilities and retain the easement(s) until utilities are relocated. Provided any needed guarantees for relocation of utilities. Completion of the listed project (give project number) can be used in lieu of guarantees.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) As needed, provide Staff with all required additional easement(s), with original signatures, dedicated by separate instrument, as needed and approved by Public Works/Storm Water. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Provide Planning staff with the legal description of the vacated easements on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. If necessary provide Storm Water and franchised utilities with any needed plans for review for location of their utilities and retain the easement(s) until utilities are relocated. Provided any needed guarantees for relocation of utilities. Completion of the listed project (give project number) can be used in lieu of guarantees.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

HILLMAN moved, **FARNEY** seconded the motion, and it carried (9-0).

- 3-2. VAC2009-28: County request to vacate a portion of a floodway reserve,** generally located on the south side of 87th Street South, east of 167th Street West.

- APPLICANT/OWNER:** Gary W & Elizabeth Patton
- LEGAL DESCRIPTION:** Generally described as the north portion of the Floodway Reserve as recorded on Film 1384, Page 1886, Sedgwick County, Kansas
- LOCATION:** Generally located on the south side of 87th Street South, east of 167th Street West (BoCC #3, Clearwater Area of Zoning Influence)
- REASON FOR REQUEST:** Correct location of Floodway Reserve
- CURRENT ZONING:** Subject property and all abutting and adjacent properties are zoned RR Rural Residential ("RR")

The applicant is requesting consideration to vacate the north portion of the Floodway Reserve (Film 1384, Page 1886) located on their unplatted tract. The described portion of the Floodway is not shown by GeoZone to be in the FEMA Flood Zone. GeoZone shows the Flood Zone to be located south and west of the subject area and further south on the applicants' unplatted tract. The applicant has been in contact with the County Engineer in reference to how much of the Floodway can be vacated. Vacating the described portion of the Floodway will remove the applicants' home from the Floodway Reserve. The site is outside of all Rural Water Districts and there is no public sewer or utilities located within the described Floodway Reserve. The site is located within the City of Clearwater's area of zoning influence and the vacation request, as instructed by County Law, will be sent to their Planning Commission for review.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Engineering, Code Enforcement, Permits and Inspection, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the Floodway Reserve.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 16, 2009, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the described portion of the Floodway Reserve and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Considerations (but not limited to) associated with the request to vacate the described portion of the Floodway Reserve have been identified, therefore, the vacation of the portion of the Floodway Reserve described in the petition should be approved with conditions;

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant's expense. As needed, provide Staff with all required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by Public Works/Storm Water. These easements will go with the Vacation Order to the BoCC for final action and recording with the Register of Deeds.

- (2) All improvements shall be according to County Standards and at the expense of the applicant, including any drainage improvements/infrastructure. If necessary provide all plans needed by County Public Works/Engineer and any guarantees to County Public Works to ensure improvements will be completed.
- (3) Provide a legal description of the vacated portion of the platted floodway as approved by County Public Works. Provide to Planning on a Word document, via e-mail to be used on the Vacation Petition and Vacation Order.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant's expense. As needed, provide Staff with all required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by Public Works/Storm Water. These easements will go with the Vacation Order to the BoCC for final action and recording with the Register of Deeds.
- (2) All improvements shall be according to County Standards and at the expense of the applicant, including any drainage improvements/infrastructure. If necessary provide all plans needed by County Public Works/Engineer and any guarantees to County Public Works to ensure improvements will be completed.
- (3) Provide a legal description of the vacated portion of the platted floodway as approved by County Public Works. Provide to Planning on a Word document, via e-mail to be used on the Vacation Petition and Vacation Order.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

HILLMAN moved, **HENTZEN** seconded the motion, and it carried (9-0).

PUBLIC HEARINGS

3. **Case No.: CUP2009-22** - Hoover Road, LLC/Clark Investment Group c/o Johnny Stevens (owner), Ruggles & Bohm c/o Chris Bohm (agent) Request Amendment #1 to DP-82 Cross Town East Commercial CUP for an off site digital billboard sign in Parcel 3 on property

described as;

The North 213.5 feet of the East 190 feet of Lot 2, Cross Town East Addition to Wichita, Sedgwick County, Kansas. Generally located south of Kellogg Avenue and east of Webb Road.

BACKGROUND: The applicant proposes to remove the prohibition on off-site billboards on DP-82 Cross Town East Community Unit Plan ("CUP") with respect to Parcel 3. The parcel is located on the southwest corner of Kellogg Street and Wildcat Lane, approximately one block east of Webb Road. The property is zoned GC General Commercial ("GC"). An off-site sign is a sign that delivers a message or advertisement other than the name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon. Billboards are offsite signs. The applicant is proposing a digital L.E.D. billboard with a maximum area of 672 square feet per side and a maximum height of 40 feet.

This CUP always has prohibited offsite signs. Also, the Unified Zoning Code ("UZC") prohibited off-site signs and billboards within a community unit plan until an amendment to the Code last year. This code amendment allowed consideration of amending CUPs on a case-by-case basis, upon request of the property owner to determine if a proposed lifting of the prohibition in a particular case is warranted.

The proposed site plan places a full-size billboard (up to 14 feet x 48 feet or 672 square feet) at the northwest edge of Parcel 3. This falls squarely within the future right-of-way of the Kellogg freeway project. The freeway project is currently under design with funding for right-of-way purchase allocated in Wichita's current CIP for the years 2101, 2011 and 2012. Construction funding is allocated for 2014 and 2015.

Two other billboards are located in this mile segment. A full size billboard is located 750 feet east of the proposed location on Parcel 3. A junior billboard of 14 feet x 24 feet, is located an additional 520 feet to the east. When the junior billboard was installed in 2007 (SGN2006-00974, approved March 7, 2007), the sign company placed it behind the anticipated Kellogg freeway right-of-way rather than at the current property line as requested by this application. Several other right-of-way adjustments already have been made in anticipation of making this segment of Kellogg a freeway. These include a right-of-way purchase on the farm supply store, and right-of-way dedications on DP-36, DP-88 and the car wash at the corner of Kellogg and Greenwich Road.

The proposed sign was requested for a maximum height of 40 feet and its location is within Airport Hazard Area A and is located approximately 520 feet to the southwest of the end of the asphalt runway on the Beech property. FAA approval is required for any structure above 25 feet, corresponding to the height limit of 25 feet established on the CUP for Parcel 3. Information on the more detailed airport hazard maps show this parcel to be within the runway approach where the interpolated permitted heights are below requested heights. Without knowing the actual elevation of the pad site, it is difficult to determine if the 25-foot height also encroaches within the conical area shown on the hazard map. Given the proposed proximity to the Hawker Beechcraft runway, a lighted sign may be of concern to flight operations.

The other two billboards in this segment of Kellogg are 30 feet in height, which is the maximum allowable height of billboards unless abutting an elevated freeway (current freeway plans show Kellogg depressed at this location). The freeway is depressed because an elevated freeway would encroach into the runway approach path. Forty feet of height, as requested by the applicant, would be interpreted as seeking the increased height for the sign by CUP amendment in place of the requirements for signs outside a CUP that would have required a BZA sign variance.

DP-82 was approved in 1977 with a Parcel 1 (0.75 acres) at the corner of the intersection, currently a liquor store, and Parcel 2 (9.247 acres) with "Proposed uses: of shopping center and or offices, professional personal services, comparison and convenience shopping." (DP-82 Parcel No. 2, approved July 5, 1977) A strip center with TG&Y as the major tenant was built in 1977. This was replaced in

1992 by Builder's Square, but this business has been closed since about 1998. An administrative adjustment in 1991 created Parcel 3 (0.93 acres) from Parcel 2, reflected as a lot split recorded in 1994. Parcel 3 was designed to allow a typical small freestanding use. Proposed uses were: restaurant (includes fast food) retail shops, banks and financial institutions, offices medical and dental offices or clinics, tire, battery and accessory stores, pharmacies, small animal clinics, day care centers, and fitness centers, limited to one building on the parcel, small freestanding retail, etc.). Parcel 3 was limited to one building. The original 300-foot setback from Kellogg Street, which remains for the balance of Parcel 2, was reduced to the CUP minimum allowed setback of 35 feet for Parcel 3 only. Parcel 3, created in 1991, remains undeveloped.

The surrounding area consists of the Hawker Beechcraft manufacturing and runway facilities, located on property zoned LI Limited Industrial ("LI"). The property to the east and south consist of sites zoned GC and used for vehicle sales, vehicle repair and equipment rental, plus the large tract occupied by the vacant home improvement center building. The property to the west is zoned GC and is a liquor store and parking area for the vacant home improvement center. West of Webb Road, the property is zoned LI and currently has a restaurant and a retail use.

CASE HISTORY: The property is platted as Cross Town East Addition, recorded October 27, 1977. A lot split of the area within Parcel 3 was recorded November 23, 1994 (Film 1490, Page 1686). DP-82 Cross Town East CUP was approved July 5, 1977. This is the first amendment to the CUP. The administrative adjustment granted December 19, 1991, added Parcel 3, increased the number of buildings allowed on the CUP to permit one building on the new parcel, reduced the setback to 35 feet along Kellogg Street, and reduced building height for Parcel 3 to 25 feet. It did not increase the maximum floor area or maximum building coverage.

ADJACENT ZONING AND LAND USE:

NORTH:	LI	Hawker Beechcraft manufacturing and runway facilities
SOUTH:	GC	Vacant commercial building, equipment rental, vehicle repair
EAST:	GC	Vehicle sales and repair
WEST:	GC, LI	Liquor store, restaurant, retail

PUBLIC SERVICES: Parcel 3 has direct access to Wildcat Lane on its eastern boundary and with cross-lot access across the CUP to Webb Road. No direct access was permitted to Kellogg Street. The CUP had access limitations of one access point onto Webb Road, two onto Orme Street (the southern boundary of the CUP) and three onto Wildcat Lane.

Kellogg is the major cross-town expressway. It is in design for construction to freeway standards. An interchange would be located at the Webb Road.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "regional commercial." This includes major destination areas with a range of uses including major retail malls, major automobile dealership and big box retail outlets with a regional market draw. The original use on Parcel 2 was in conformance with this designation, as are the major car dealerships located in the mid-mile segment between Webb Road and Greenwich Road. The Unified Zoning Code regulations had been to prohibit billboards in CUPs until last year and the amended regulations contemplate that the prohibition can be removed only by CUP amendment, to allow a public hearing and discussion of the appropriateness of a particular site for a billboard. The requested location of the billboard is within the area for future right-of-way, as depicted on preliminary plans for Kellogg available to the public, and with the City of Wichita's adopted 2007-2016 Capital Improvement Program Workbook for improvement of east Kellogg from Webb to Greenwich to freeway standards. It is designated as the major freeway project during this timeframe. Kellogg has been improved to freeway standards up to the KTA interchange, and contracts were given in 2008 for design of the KTA/Webb Road/Kellogg interchange and the Greenwich/Kellogg interchange.

RECOMMENDATION: The CUP has always had a restriction to onsite signs. To approve this amendment is to remove a restriction in place. The ramifications are potentially detrimental, resulting in hiking the costs of construction for no benefit to the public. In contrast, like other uses located along the Kellogg frontage from Webb Road to Greenwich Road, this CUP stands to benefit financially from the freeway construction. Many other locations along this mile segment have facilitated the Kellogg freeway construction in anticipation of these future gains by dedication of right-of-way. The same applicant owns all of Parcel 2 and Parcel 3, and could have chosen a different placement that would have afforded the good advertising visibility without creating this public hardship, as was done by the most recent billboard erected in the vicinity in 2006. The requested height appears in conflict with airport hazard zone restrictions. Based on these factors, plus the information available prior to the public hearing, staff recommends the request for Amendment #1 to DP-82 be **DENIED**.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** DP-82 was approved in 1977 with a Parcel 1 (0.75 acres) at the corner of the intersection, currently a liquor store, and Parcel 2 (9.247 acres) with "Proposed uses: of shopping center and or offices, professional personal services, comparison and convenience shopping." (DP-82 Parcel No. 2, approved July 5, 1977) A strip center with TG&Y as the major tenant was built in 1977. This was replaced in 1992 by Builder's Square, but this business has been closed since about 1998. An administrative adjustment in 1991 created Parcel 3 (0.93 acres) from Parcel 2, reflected as a lot split recorded in 1994. Parcel 3 was designed to allow a typical small freestanding use. Proposed uses were: restaurant (includes fast food) retail shops, banks and financial institutions, offices medical and dental offices or clinics, tire, battery and accessory stores, pharmacies, small animal clinics, day care centers, and fitness centers, limited to one building on the parcel, small freestanding retail, etc.). Parcel 3 was limited to one building. The original 300-foot setback from Kellogg Street, which remains for the balance of Parcel 2, was reduced to the CUP minimum allowed setback of 35 feet for Parcel 3 only. Parcel 3, created in 1991, remains undeveloped. The surrounding area consists of the Hawker Beechcraft manufacturing and runway facilities, located on property zoned LI Limited Industrial ("LI"). The property to the east and south consist of sites zoned GC and used for vehicle sales, vehicle repair and equipment rental, plus the large tract occupied by the vacant home improvement center building. The property to the west is zoned GC and is a liquor store and parking area for the vacant home improvement center. West of Webb Road, the property is zoned LI and currently has a restaurant and a retail use.
2. **The suitability of the subject property for the uses to which it has been restricted:** The area is suitable as currently zoned and allowed by the community unit plan. A wide range of uses that provide potential economic value are currently allowed by the CUP. The requested changes conflicts with the Kellogg freeway and may conflict with the runway height limitations. A lighted sign might also conflict with air operations.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The number of billboards allowed in a mile segment are limited by the length of frontage zoned LC or more intensive and where billboards are not prohibited but to a maximum number per segment. Minimum spacing is 300 feet apart. The location of any billboard, but the nature of the Wichita Sign Code requirements, could preempt other billboard sites in more appropriate locations.
4. **Length of time the subject property has remained vacant as zoned:** The lot encompassing Parcel 2 and Parcel 3 was developed with first with a variety store, then with a home improvement center, but this use has been vacant since 1997. Parcel 3 never has been paved even as parking for the earlier use.
5. **Relative gain to the public health, safety, and welfare as compared to the loss in value or the hardship placed on the applicant:** The relative loss is one-sided, only born by the public in terms of potential

increase in costs to acquire right-of-way after a billboard is placed on the property to increase intensification of the use of the property in a manner not allowed today. The applicant faces no loss in value from denial of this request, as the development rights of the parcel would not be altered by denial from today's conditions. Furthermore the applicant could have sought a location that respected future right-of-way needs and did not create financial hardship on the community.

6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "regional commercial." This includes major destination areas with a range of uses including major retail malls, major automobile dealership and big box retail outlets with a regional market draw. The original use on Parcel 2 was in conformance with this designation, as are the major car dealerships located in the mid-mile segment between Webb Road and Greenwich Road. The Unified Zoning Code regulations had been to prohibit billboards in CUPs until last year and the amended regulations contemplate that the prohibition can be removed only by CUP amendment, to allow a public hearing and discussion of the appropriateness of a particular site for a billboard. The requested location of the billboard is within the area for future right-of-way, as depicted on preliminary plans for Kellogg available to the public, and with the City of Wichita's adopted 2007-2016 Capital Improvement Program Workbook for improvement of east Kellogg from Webb to Greenwich to freeway standards. It is designated as the major freeway project during this timeframe. Kellogg has been improved to freeway standards up to the KTA interchange, and contracts were given in 2008 for design of the KTA/Webb Road/Kellogg interchange and the Greenwich/Kellogg interchange.
7. Impact of the proposed development on community facilities: The requested amendment will result in a detrimental impact on community facilities and would be a change from impacts allowed today by development of the parcel by current CUP allowable provisions.

DONNA GOLTRY, Planning Staff reported that the agent for the applicant asked that the case be deferred. She added that DAB II heard the case on Monday and deferred it for 30 days.

MOTION: To defer the item until after the DAB meeting.

J. JOHNSON moved, **DENNIS** seconded the motion.

MARNELL said he was going to oppose the motion. He said once again, we are trying to have the DABs run the Planning Commission. He said if the DAB meeting precedes the Planning Commission Hearing it is fine to have the information, but he does not believe it is necessary for the Planning Commission to make a decision. He said the DABs by their very nature are district advisory councils for the City Council.

SHERMAN asked staff the reason for the deferral request; was it to get information from the DAB?

GOLTRY said the applicant requested the deferral.

SUBSTITUTE MOTION: To defer the item until the September 24, 2009 MAPC Hearing.

HILLMAN moved, **MARNELL** seconded the motion, and it carried (9-0).

NON-PUBLIC HEARING ITEMS

Other Matters/Adjournment

HENTZEN mentioned that the application referenced further development of 54 Highway East. He asked if the City had a policy about not allowing obstructions in right-of-way (ROW) that may be needed within a reasonable length of time.

DIRECTOR SCHLEGEL said the Kellogg project was not a "maybe." He said the conceptual design is complete; however, due to the complicated interchange at Webb Road and the Turnpike interchange, the existing design needs to be reassessed. He said the ultimate ROW is not fixed at this point in time. He said there is a definite design and funding has been identified for the project. He said the concept plan ROW line shown in the Staff Report is the least amount of ROW that will be needed as projected by Public Works Staff. He said it is an almost certainty that the proposed billboard will be in the ROW of the expansion project.

HENTZEN asked about the K-96 Northwest Bypass and the fact that the Kansas Department of Transportation does not want structures built in the ROW.

DIRECTOR SCHLEGEL explained that the County and City of Wichita have adopted an overlay district to prevent structures from being built in the ROW.

HENTZEN asked if there was an overlay district on East Kellogg.

DIRECTOR SCHLEGEL said there was no overlay district on East Kellogg. He further commented that the distinction on this particular application was that the applicant was requesting something that is not allowed "by right."

HILLMAN asked if there was any update on the proposed south bypass and any planned ROWs for that project.

DIRECTOR SCHLEGEL responded that the South Area Transportation Study did not recommend a south area bypass because purchase of ROW for that project would be extremely expensive and the project would cost hundreds of millions of dollars to build.

HILLMAN said there is an existing highway on the Sumner and Sedgwick County line. He commented that certainly on the Sedgwick side, staff should be exercising a broad ROW to keep further expenses down in the future because of the casino and other things that are planned along the highway. He said he was looking to save the County money in the long run.

DIRECTOR SCHLEGEL asked if he was talking about ROW for a southern bypass or arterial streets.

HILLMAN said ROW along the highway and added that there were recommendations in the plan that did not cost any money.

DIRECTOR SCHLEGEL reiterated that the South Area Transportation Study did not recommend development of a south area bypass. He said the study recommended that the arterial roadway system be upgraded as development occurs to the south of the metropolitan area. He said the study recommended a parkway system with limited access.

HILLMAN said he was asking about enough ROW to avoid buildings being constructed along some of those areas, so if and when roads get widened, the County will not have to purchase ROW.

DIRECTOR SCHLEGEL said the study recommended that the parkway system be built within the ROW of the arterials, and he said there are already provisions for that in the Subdivision Code.

HILLMAN said then that is being actively pursued?

DIRECTOR SCHLEGEL said yes, as plats are being proposed for new development in that area. He said there was no need to actively purchase ROW now.

DIRECTOR SCHLEGEL reminded Commission members that election of officers was scheduled for the first meeting in September.

J. JOHNSON asked about the status of the "red bins."

MILLER indicated that discussion of that was scheduled for the Development Review Meeting tomorrow, Friday, August 7.

J. JOHNSON said he was confused as to how those bins are allowed around the community.

MARNELL said he was curious about that himself because he said he couldn't remember the exact wording but it was something about donation of shoes and clothing, but there was no charity name attached to them.

J. JOHNSON asked if they are allowed by the zoning ordinance.

MILLER STEVENS said she understood that they seek permission from the business owner, since they are placed in private parking lots.

There was general discussion that "red bins" for recycling of clothing and shoes have been popping up all over town.

The Metropolitan Area Planning Department informally adjourned at 2:50 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2009.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)